

PATENT

Applicant: Yamamoto

Serial No.: 09/920,236

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Title: Printable Media For Use In
Multi-Sheet Assemblies

Group Art Unit: 1772

Examiner: Ahmad

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Mail Stop Appeal Brief-Patents

APPEAL BRIEF

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I. REAL PARTY IN INTEREST

The real party in interest in the present appeal is Avery Dennison Corporation, the assignee of the present application.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences which will directly affect, or be directly affected by, or have a bearing on, the Board's decision in the present appeal.

III. STATUS OF CLAIMS

Claims 1-12, 14, 15, 17 and 20-26 are pending and are set forth in the Appendix.

Claims 13, 16, 18, 19, 27 and 28 have been canceled.

Claims 15, 17, 25 and 26 have been allowed.

Claims 1-12 and 20-22 have been rejected under 35 U.S.C. § 112, first paragraph.¹ Claims 14 and 23 have been rejected under 35 U.S.C. § 102. Claim 24 has been rejected under 35 U.S.C. § 103.

Applicant hereby appeals the rejections of claims 1-12, 14 and 20-24.

IV. STATUS OF AMENDMENTS

No amendments were filed subsequent to the final rejection.

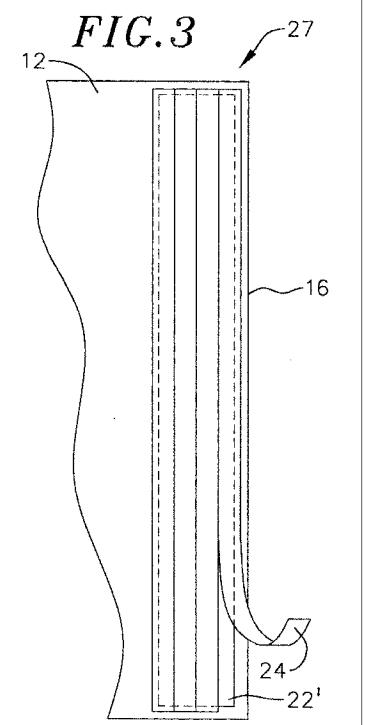
¹ The statement of rejection on page 2 of the Final Office Action actually refers to claims 1-11 and 20-22. Applicant has assumed for the purposes of this Brief that this was a typographical error and that the Examiner intended to refer to claims 1-12 and 20-22. Applicant hereby requests that the Examiner confirm that claim 12 has been rejected in the Examiner's Answer.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Applicant notes for the record that the claims are not limited to the various exemplary embodiments discussed in this portion of the Brief. Reference to particular figures, reference numerals and portions of the application are being made solely in order to allow the Board to quickly determine where an exemplary embodiment of each of the claimed inventions is illustrated and described in the application in accordance with 37 C.F.R. § 41.37(c)(1)(v) and MPEP § 1205.02.

A. Independent Claim 1

Independent claim 1 is directed to “printable media.” Referring to Figure 3, which is reproduced below, the claimed printable media comprises “an **at least substantially opaque** sheet [12] defining a front side, a rear side and a plurality of side edges.” [Page 4, line 32 to page 5, line 1; and page 5, lines 13-18 and 21-23.] As is discussed in greater detail in Section VII-A below, an “at least substantially opaque sheet” is a sheet that is, at a minimum, close enough to being impenetrable to light to prevent indicia on one side of the sheet from being viewed from the other side of the sheet. Independent claim 1 also calls for “at least one strip of adhesive material [22’] on one of the front and rear sides of the at least substantially opaque sheet [12] adjacent to a first one [16] of the plurality of side edges.” [Page 6, lines 30-34.] There is also “a plurality of liners [24] positioned over the at least one strip of adhesive material [22’] and adjacent to the first one [16] of the plurality of side edges.” [Page 6, lines 30-34.] “[O]ne of the plurality of liners [is] located between the first one of the plurality of side edges and another one of the plurality of liners.” [Note the partially peeled liner 24.]

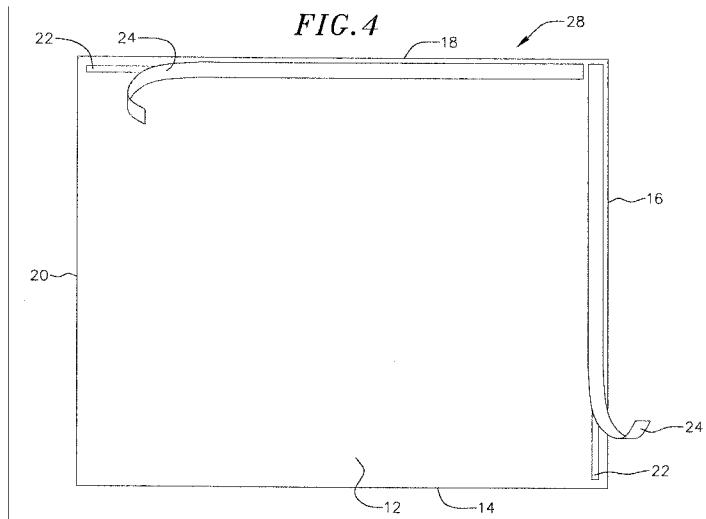


B. Independent Claim 7

Independent claim 7 is directed to “printable media.” Referring to Figure 3, which is reproduced on the preceding page, the claimed printable media comprises “an **at least substantially opaque** sheet [12] defining a front side, a rear side and a plurality of side edges.” [Page 4, line 32 to page 5, line 1; and page 5, lines 13-18 and 21-23.] Independent claim 7 also calls for “a single strip of adhesive material [22’] defining a width on one of the front and rear sides of the at least substantially opaque sheet [12] adjacent to a first one [16] of the plurality of side edges” and “a plurality of liners [24] defining respective widths that are less than the width of the single strip of adhesive material [22’] positioned closely adjacent to one another over the single strip of adhesive material.” [Page 6, line 30 to page 7, line 7.]

C. Independent Claim 9

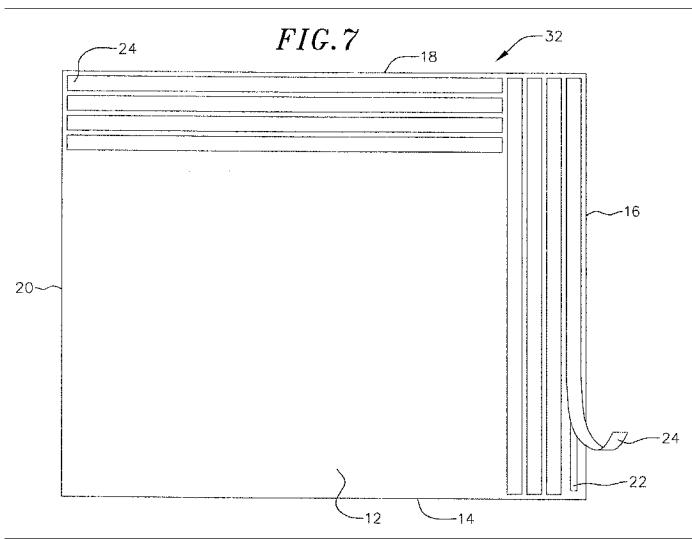
Independent claim 9 is directed to “printable media.” Referring to Figure 4, which is reproduced below, the claimed printable media comprises “an **at least substantially opaque** sheet [12] defining a front side, a rear side and at least first and second intersecting side edges [16, 18], each of the first and second side edges defining opposing longitudinal ends, one of longitudinal ends of each of the first and second side edges defining a common longitudinal end.” [Page 4, line 32 to page 5, line 1; and page 5, lines 13-18 and 21-23.] Independent claim 9 also calls for “a substantially continuous first strip of adhesive material [22] on one of the front and rear sides of the at least substantially opaque sheet [12] adjacent to the first side edge [16]



and extending substantially from one longitudinal end of the first side edge to the other longitudinal end of the first side edge" and "a substantially continuous second strip of adhesive material [22] on the one of the front and rear sides of the at least substantially opaque sheet [12] adjacent to the second side edge [18] and extending substantially from one longitudinal end of the second side edge to the other longitudinal end of the second side edge." [Page 7, lines 8-19.]

D. Independent Claim 14

Independent claim 14 is directed to "printable media." Referring to Figure 7, which is reproduced below, the claimed printable media comprises "a sheet [12] defining a front side, a rear side and at least first and second **intersecting** side edges [16, 18], each of the first and second side edges defining opposing longitudinal ends, one of longitudinal ends of each of the first and second side edges defining **a common longitudinal end.**" [Page 4, line 32 to page 5, line 1; and page 5, lines 13-18 and 21-23.] With respect to the exemplary sheet 12, a common longitudinal end of two intersecting side edges is a **corner**, e.g. the corner under reference numeral 32. Independent claim 14 also calls for "a plurality of first strips of adhesive material [22] on one of the front and rear sides of the sheet [12] adjacent to the first side edge [16] and extending **substantially from one longitudinal end of the first side edge to the other** longitudinal end of the first side edge" and "a plurality of second strips of adhesive material [22] on the one of the front and rear sides of the sheet [12] adjacent to the second side edge [18] and extending **substantially from one longitudinal end of the second side edge to the other** longitudinal end of the second



side edge.” [Page 8, lines 6-11.] Independent claim 14 also recites “a plurality of first liners [24] respectively positioned over the plurality of first strips of adhesive material [22]” and “a plurality of second liners [24] respectively positioned over the plurality of second strips of adhesive material [22].” [Page 8, lines 6-11.]

E. Independent Claim 20

Independent claim 20 is directed to “printable media.” Referring to Figure 7, which is reproduced on the preceding page, independent claim 20 calls for “an **at least substantially opaque** sheet defining a front side, a rear side, first and second horizontally extending side edges [18, 14], and first and second vertically extending side edges [16, 20], each of the side edges defining opposing longitudinal ends.” [Page 4, line 32 to page 5, line 1; and page 5, lines 13-18 and 21-23.] Independent claim 20 also calls for “a horizontally extending strip of pressure sensitive adhesive [22’] on the rear side of the at least substantially opaque sheet [12] adjacent to the first horizontally extending side edge [18] and extending substantially from one longitudinal end of the first horizontally extending side edge to the other longitudinal end of the first horizontally extending side edge” and “a vertically extending strip of pressure sensitive adhesive [22’] on the rear side of the at least substantially opaque sheet [12] adjacent to the first vertically extending side edge [16] and extending substantially from one longitudinal end of the first vertically extending side edge to the other longitudinal end of the first vertically extending side edge.” [Figure 3; Page 8, lines 6-7; and page 9, lines 1-4.] Independent claim 20 also calls for “a plurality of closely spaced horizontally extending release liners [24] together covering at least a substantial majority of the horizontally extending strip of pressure sensitive adhesive [22’]” and “a plurality of closely spaced vertically extending release liners [24] together covering at least a substantial majority of the vertically extending strip of pressure sensitive adhesive [22’].” [Figure 3; Page 8, lines 6-9; and page 9, lines 1-4.]

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**A. Written Description Rejection Under 35 U.S.C. § 112, First Paragraph**

Claims 1-12 and 20-22 have been rejected under 35 U.S.C. § 112, first paragraph, as purportedly failing to comply with the written description requirement. On page 2, the Final Office Action stated that “[t]he phrase ‘at least substantially opaque sheet’ is found to be new matter for lack of support for said phrase in the specification as originally filed.”

B. Enablement Rejection Under 35 U.S.C. § 112, First Paragraph

Claims 1-12 and 20-22 have been rejected under 35 U.S.C. § 112, first paragraph, as purportedly failing to comply with the enablement requirement. On page 2, the Final Office Action stated:

The phrase “substantially opaque” is found to be lacking enablement because it is unclear as to what is defined by “substantially.” It is not clear as to what is considered meant by “substantially” opaque?

C. Rejection Under 35 U.S.C. § 102

Claims 14 and 23 have been rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 3,950,580 to Boudet (“the Boudet patent”). On page 3, the Final Office Action made reference to the prior, non-Final Office Action, which stated:

Boudet relates to a paper sheet (1) having at least one strip one strip of adhesive (2) on one surface thereon and adjacent one of the edges, and a plurality of liners (4, 5) positioned over the adhesive strips, One of the liners (4) being located between the side edge and another one of the liner strip (5). The adhesive is pressure sensitive adhesive (PSA). The adhesive strip (2) can be a plurality of adhesive strips (col. 1, lines 47-510. with plurality of liners. Respectively positioned over the adhesive strips.

When the adhesive is a single strip with a plurality of liners, each of the liner will have a width that is less than that of the adhesive strip. As shown

in the drawings the liners (4, 50) are positioned closely adjacent to one another. Drawing also shows that the sheet has intersecting side edges with a first adhesive strip (2) adjacent a first edge and a second adhesive strip (5) adjacent a second edge, and that the adhesive strips extend from edge to edge.

The preamble phrase “printable media” is directed to an intended use of the claimed product and hence, has not been given any patentable weight as it is not found to be of positive limitation.

[Office Action dated September 30, 2005 at page 3, grammatical errors in the original.]

Page 3 of the Final Office Action also stated:

Applicant argues that Boudet fails to teach the presence of adhesive strips on more than one side. This is not found to be convincing because, as shown in the drawing of Boudet, the first adhesive strip is along a first side of the sheet and the second adhesive strip is located along a second side of the strip (col. 1, lines 35-40) the two sides intersects with each other.

D. Rejection Under 35 U.S.C. § 103

Claim 24 has been rejected under 35 U.S.C. § 103 as being unpatentable over the Boudet patent. On page 3, the Final Office Action made reference to the prior, non-Final Office Action, which stated:

Boudet, as discussed above, fails to teach that the sheet is 8.5 x 11 inches in size. It would have been obvious matter of design choice to modify Boudet by providing the sheet to have 8.5 x 11 Inches size, since such a modification would have involved in a mere change in the size of the component. A change in size is generally recognized to be within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

[Office Action dated September 30, 2005 at page 4, grammatical errors in the original.]

VII. ARGUMENT

A. Claim Interpretation Issues Associated With the Written Description and Enablement Rejections of Claims 1-12 and 20-22 Under 35 U.S.C. § 112, First Paragraph

The rejections under the first paragraph of 35 U.S.C. § 112 are related to the recitation of an “at least substantially opaque sheet” in independent claims 1, 7, 9 and 20 and dependent claims 2, 3, 10, 11, 21 and 22. The first step in determining whether or not an “at least substantially opaque sheet” was described in and enabled by the present application, as filed, is determining how one of ordinary skill in the “printable media” art would interpret this phrase. MPEP § 2163-II-A-1. To that end, and as discussed at length in MPEP § 2111.01-I, “simple English words whose meaning is clear and unquestionable, absent any indication that their use in a particular context changes their meaning, are construed to mean exactly what they say.” *Citations omitted.* Applicant respectfully submits that the phrase “at least substantially opaque” is a collection of simple English words that would be understood by one of ordinary skill in the “printable media” art as describing a sheet that is, at a minimum, close enough to being impenetrable to light to prevent indicia on one side of the sheet from being viewed from the other side of the sheet.

Starting with the word “opaque,” the plain meaning this word is “impenetrable by light; neither transparent nor translucent.” *The American Heritage® Dictionary of the English Language* (4th Ed. 2000).

Turning to the word “substantially,” this word is commonly used in patent claims to describe situations where there may be some degree of variation. See *Andrew Corp. v. Gabriel Electronics Inc.*, 6 USPQ2d 2010, 2012 (Fed. Cir. 1988). Thus, something that is “substantially opaque” is either completely impenetrable to light, or is somewhat close. The Board’s attention is also respectfully directed to U.S. Patent No. 6,455,119 to Carides et al. (“the Carides patent”), which is attached hereto as Exhibit 1. The Carides patent, which is classified in class 428/040.1 (i.e. the same class and subclass as the present application), includes the following description of the structure illustrated in Figure 2 thereof:

If completely or **substantially opaque**, game portion 22 may include text, symbols, or other information on its underside 70 that is **obscured from view** on the one hand by its upper surface 74 and on the other by the base ply 14. Similarly, because game portion 22 obscures central area 38 of upper surface 58 from view, hidden textual or other information may be printed or otherwise included thereon as well.

[Column 5, lines 31-35, emphasis added.] In other words, the Carides patent indicates (1) that completely opaque and substantially opaque are two different things and (2) that indicia on one side of the substantially opaque game portion 22 cannot be viewed from the other side of the substantially opaque game portion 22.

Finally, the phrase “at least” is a common English phrase that means “not less than.” *The American Heritage® Dictionary of the English Language* (4th Ed. 2000). There is also no end to the use of this phrase in the patent arena. 35 U.S.C. § 111(a), for example, mandates that a complete non-provisional patent application include “at least one claim.” Thus, there cannot be less than one claim in an application. There must be one claim, at a minimum, and there can be more than one claim. Applicant’s use of the phrase is no different. The phrase “at least” is simply being used to set a minimum level.

In view of the forgoing, applicant respectfully submits that one of ordinary skill in the art would understand that an “at least substantially opaque sheet” is a sheet that is, at a minimum, close enough to being impenetrable to light to prevent indicia on one side of the sheet from being viewed from the other side of the sheet. The 35 U.S.C. § 112, first paragraph, support in the application as filed for such a sheet is discussed below.

In response to claim interpretation arguments similar to those above, the Advisory Action asserted that the applicant’s explanation of the phrase “at least substantially opaque” was “further confusing because it is not clear as to what amount of light penetration is permitted by ‘somewhat close’ or ‘close enough.’” [Advisory Action at page 2.]

There are a variety of errors associated with this assertion. First and foremost, it does not even begin to address, much less refute, applicant’s arguments concerning the meaning of an “at least substantially opaque sheet.” The Examiner also appears to be confusing the requirements of the second paragraph of Section 112, which the claims comply with, with those of first paragraph. Note, for example, that the MPEP clearly

indicates that “[t]he absence of definitions or details for well-established terms or procedures should **not** be the basis of a rejection under 35 U.S.C. 112, para. 1, for lack of adequate written description.” MPEP 2163-II-A-1, *emphasis added*. Most interesting, however, is the fact that the Examiner appears to be asserting that, on one hand, he does not know what is meant by the phrase “at least substantially opaque sheet” and, on the other, that an “at least substantially opaque sheet” is not described in or enabled by the present application. Query, how can the Examiner assert that something is not described or enabled if the Examiner does not even know what that something is?

Accordingly, applicant respectfully submits that the issues of written description and enablement should be evaluated in accordance with the claim interpretation presented above, i.e. an “at least substantially opaque sheet” is a sheet that is, at a minimum, close enough to being impenetrable to light to prevent indicia on one side of the sheet from being viewed from the other side of the sheet.

B. Argument Concerning the Written Description Rejection of Claims 1-12 and 20-22 Under 35 U.S.C. § 112, First Paragraph

“To satisfy the written description requirement, a patent specification must describe the claimed invention in sufficient detail that one skilled in the art can reasonably conclude that the inventor had possession of the claimed invention.” MPEP § 2163-I, *citations omitted*. “An applicant shows possession of the claimed invention by describing the claimed invention with all of its limitations using such descriptive means as words, structures, figures, diagrams, and formulas that fully set forth the claimed invention.” *Id.* Thus, the present applicant is required to show possession of “printable media” that includes, *inter alia*, an “at least substantially opaque sheet,” i.e. the only portion of the claimed inventions at issue here.

The descriptive phrase “at least substantially opaque” was added to the claims at issue by amendment. Although the specification does not include the exact phrase “at least substantially opaque sheet,” there is no *in haec verba* requirement for claim language added by amendment. MPEP § 2163-I-B. The claim limitation at issue need only be “supported in the specification through express, implicit or inherent disclosure.”

Id. The present specification discloses a variety of exemplary sheets that one of skill in the art would recognize as being “at least substantially opaque,” i.e. a sheet that is, at a minimum, close enough to being impenetrable to light to prevent indicia on one side from being viewed from the other side. In particular, on page 5, lines 19-23, the specification identifies “photo-grade and other heavy weight paper” and “card stock” as suitable sheet materials. At least substantial opacity is an inherent characteristic of “photo-grade and other heavy weight paper” and “card stock.” Thus, a variety of “at least substantially opaque sheets” are described in the specification in accordance with MPEP § 2163.07(a). The above-referenced portion of the specification also refers to “foil,” which is commonly at least substantially opaque, thereby providing additional written description support.

In response to arguments similar to those above, the Advisory Action asserted that being “at least substantially opaque” is not an inherent characteristic of “card stock” because “card stock” may be translucent, transparent or opaque. [Advisory Action at page 2.] Even assuming for the sake of argument that this assertion is correct, the Advisory Action failed to address the fact that one of skill in the “printable media” art would readily recognize that “photo-grade and other heavy weight paper” are at least substantially opaque, i.e. are types of paper that inherently are, at a minimum, close enough to being impenetrable to light to prevent indicia on one side of the paper from being viewed from the other side of the paper.

Additionally, and although not raised previously, the drawings of the present application also show sheets that are “at least substantially opaque.” Referring to Figures 5A-5F, the adhesive strips 22 and release liners 24 on the back sides of the sheets 28(1)-28(6) are not visible. After the release liners 24 have been removed and the sheets 28(1)-28(6) have been assembled into a multi-sheet assembly, the adhesive strips 22 on the back side of the sheets are not visible and the edges of sheets that are behind other sheets are shown with **hidden lines** because the edges are not visible through the other sheets.

In view of the forgoing, applicant respectfully submits that the written description rejection under the first paragraph of 35 U.S.C. § 112 is improper and should be reversed.

C. Argument Concerning the Enablement Rejection of Claims 1-12 and 20-22 Under 35 U.S.C. § 112, First Paragraph

At the outset, applicant notes that the stated basis for the enablement rejection is as follows:

The phrase “substantially opaque” is found to be lacking enablement because it is unclear as to what is defined by “substantially.” It is also not clear as what is considered meant by “substantially” opaque?

[Final Office Action at page 2.] There are at least two errors associated with this statement. First and foremost, one of ordinary skill in the “printable media” art would, as discussed above, understand what an “at least substantially opaque sheet” is. Second, a purported lack of clarity in claim language is not a proper basis for an enablement rejection under the first paragraph of 35 U.S.C. § 112. The actual standard for enablement is, quite simply, whether or not the application, as filed, includes enough information to enable one of ordinary skill in the art to **make and/or use** the claimed invention. MPEP § 2164.01. The present specification meets this standard.

Notwithstanding the fact that one of ordinary skill in the art would be able to obtain an at least substantially opaque sheet with no help whatsoever from the present specification,² the present specification identifies a plurality of sheet materials that are at least substantially opaque. More specifically, on page 5, lines 19-23, the specification identifies “photo-grade and other heavy weight paper” and “card stock,” which are “at least substantially opaque,” as suitable sheet materials. This portion of the present specification also refers to “foil,” which is commonly at least substantially opaque. As

² As noted in MPEP § 2164, “the statement of a new limitation in and of itself may enable one skilled in the art to make and use the claim containing that limitation even though that limitation may not be described in the original disclosure.”

such, armed with the teachings of the specification, one of ordinary skill in the “printable media” art would be able to make and/or use this aspect of the claimed inventions.

In response to arguments similar to those above, the Advisory Action asserted that being “at least substantially opaque” is not an inherent characteristic of “card stock” because “card stock” may be translucent, transparent or opaque. [Advisory Action at page 2.] Even assuming for the sake of argument that this assertion is correct, it does not support the outstanding enablement rejection. This assertion is, instead, essentially irrelevant to the issue of enablement. The issue is not whether card stock that is not “at least substantially opaque” exists. The issue whether the recitation of “card stock” in the present specification would provide sufficient information to allow one of ordinary skill in the “printable media” art to make something that requires an “at least substantially opaque sheet.” Applicant respectfully submits that it does. The assertion in the Advisory Action also completely ignores the additional recitation of “photo-grade and other heavy weight paper” in the specification, which would further assist one of skill in the “printable media” art during his/her search for an “at least substantially opaque sheet.”

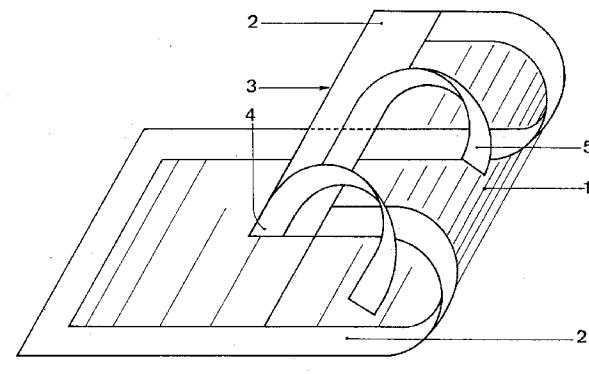
In view of the forgoing, applicant respectfully submits that the enablement rejection under the first paragraph of 35 U.S.C. § 112 is improper and should be reversed.

D. Arguments Concerning the Rejection of Claims 14 and 23 Under 35 U.S.C. § 102

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP § 2131, *citations omitted*. The final Office Action failed to meet this standard because the Boudet patent, which is directed to device for displaying address labels on a letter or parcel, fails to teach or suggest each and every element in the claimed combinations.

Referring to the single Figure, which is reproduced below, the Boudet device includes a transparent sheet 1, through which an address label may be viewed, and adhesive 2 along all of the side edges of the transparent sheet. The adhesive 2 along three of the side edges is covered by film strips (not shown), while the adhesive material

along **one of the side edges** is divided into a pair of adhesive strips and is covered by a pair of film strips 4 and 5. Because the adhesive along **one of the side edges** is divided into a pair of adhesive strips and covered by a pair of film strips, the device may be used twice, as is discussed in column 1, lines 47-68.



The combination defined by independent claim 14 calls for, *inter alia*, **two intersecting side edges** that **each** have a **plurality** of adhesive strips that extends substantially from **one longitudinal end of the associated side edge to the other** longitudinal end and a plurality of liners. The Boudet patent, as illustrated above, discloses that **only one side edge** of the device has a **plurality** of adhesive strips that extends substantially from **one longitudinal end** of the side edge **to the other and** a corresponding **plurality** of liners. As such, claim 14 is not anticipated.

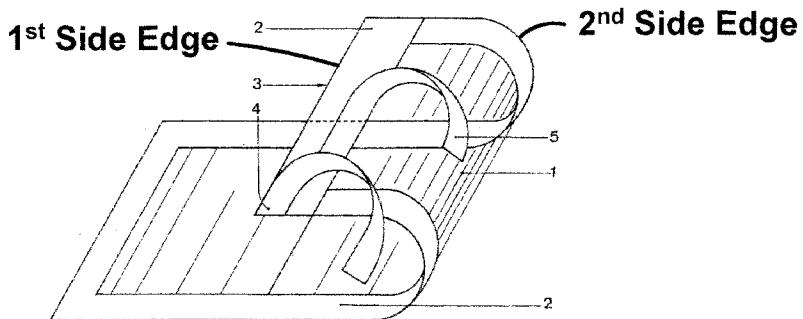
In addition to making arguments similar to those presented above, applicant invited the Examiner to provide a marked-up copy of Boudet Figure with text and lead lines clearly identifying all of the elements recited in claim 14. The Examiner refused to do so and, instead, made the following statement in the Advisory Action:

[A]pplicant should note that the Boudet reference teaches a plurality of adhesive strips along a marginal edge of the sheet and covered by a plurality of liners. Since, these adhesive strips and its corresponding liners extend to the two longitudinal side edges, the presence of said adhesive strips and its liners are interpreted to be along the two side edges.

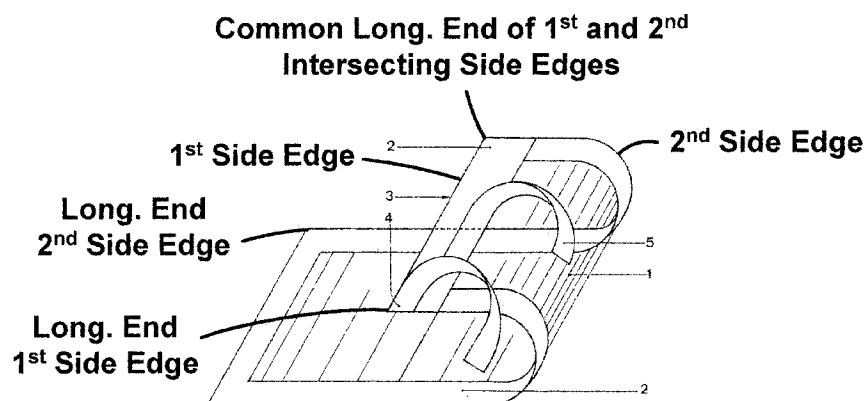
[Advisory Action at page 2.] Applicant respectfully submits that this statement clearly indicates that the Examiner has ignored various aspects of independent claim 14 that preclude claim 14 from being anticipated by the Boudet patent. In order to demonstrate

how the Examiner ignored portions of claim 14, the differences between the claimed combination and the Boudet device, which are verbally enumerated above, are re-enumerated below with reference to a marked-up version of the Boudet Figure.

The first portion of the first clause of claim 14 calls for "a sheet defining a front side, a rear side and at least first and second ***intersecting*** side edges."

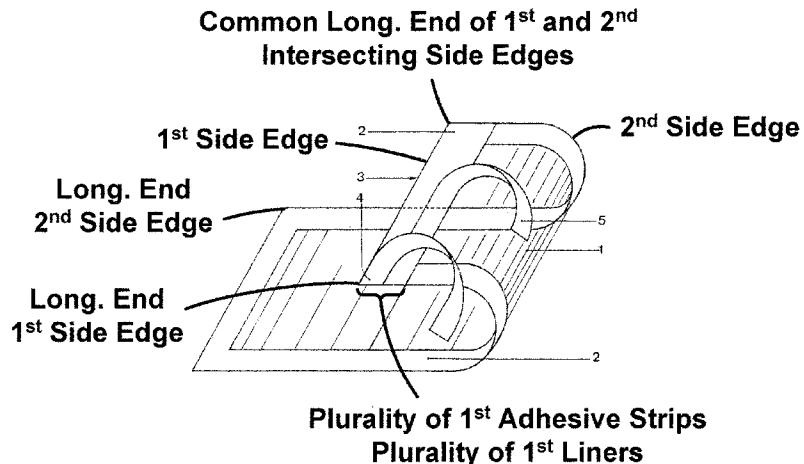


The second portion of the first clause of claim 14 recites "each of the first and second side edges defining opposing longitudinal ends, one of longitudinal ends of each of the first and second side edges defining a ***common longitudinal end***."

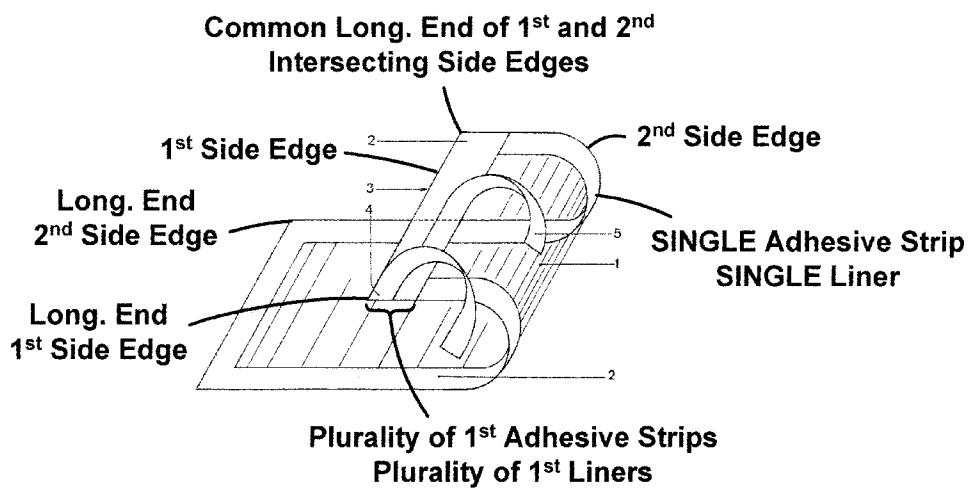


The second and fourth clauses of claim 14 respectively call for "a plurality of first strips of adhesive material on one of the front and rear sides of the sheet adjacent to the first side edge and ***extending substantially from one longitudinal end of the first***

side edge to the other longitudinal end of the first side edge and “a plurality of first liners respectively positioned over the plurality of first strips of adhesive material.”



The third and fifth clauses of claim 14 respectively call for “a plurality of second strips of adhesive material on the one of the front and rear sides of the sheet adjacent to the second side edge and ***extending substantially from one longitudinal end of the second side edge to the other longitudinal end of the second side edge***” and “a plurality of second liners respectively positioned over the plurality of second strips of adhesive material.” In contrast the claimed combination, however, there is a ***single*** strip of adhesive that extends from one longitudinal end of the second side edge to the other and a ***single*** liner positioned over the single strip of adhesive. As such, the Boudet patent lacks at least one element in the claimed combination.



As illustrated above, the Boudet patent fails to teach or suggest each and every element of the combination recited in independent claim 14. The rejection of claims 14 and 23 under 35 U.S.C. § 102 is, therefore, improper and should be reversed.

E. Arguments Concerning the Rejection of Claim 24 Under 35 U.S.C. § 103

Claim 24 depends from independent claim 14 and includes, *inter alia*, all of the elements recited in claim 14. With respect to the rejection under 35 U.S.C. § 103, and referring to the discussion above, the Boudet device lacks ***two intersecting side edges*** that ***each*** have a ***plurality*** of adhesive strips that extends substantially from ***one longitudinal end of the associated side edge to the other*** and a plurality of liners. Applicant respectfully submits that one of ordinary skill in the art would not have been motivated to modify the Boudet device such that more than one of the side edges included a plurality of adhesive strips and a corresponding plurality of liners. The Boudet “send and re-send” process discussed in column 1, lines 47-68 ***only requires one side*** of sheet 1 to include a plurality of adhesive strips and a corresponding plurality of liners.

The rejection of claim 24 under 35 U.S.C. § 103 is, therefore, improper and should be reversed.

VIII. CLOSING REMARKS

As applicant has shown above, the rejections of claim 1-12 and 20-22 under 35 U.S.C. § 112 are improper and should be reversed, the rejection of claims 14 and 23 under 35 U.S.C. § 102 is improper and should be reversed, and the rejection of claim 24 under 35 U.S.C. § 103 is improper and should be reversed.

A credit card charge authorization in the amount of \$500 is accompanying the filing of this paper. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-0638. Should such fees be associated with an extension of time, applicant respectfully requests that this paper be considered a petition therefor.

Respectfully submitted,

October 23, 2006
Date

/Craig A. Slavin/
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CLAIMS APPENDIX

1. Printable media, comprising:

an at least substantially opaque sheet defining a front side, a rear side and a plurality of side edges;

at least one strip of adhesive material on one of the front and rear sides of the at least substantially opaque sheet adjacent to a first one of the plurality of side edges; and

a plurality of liners positioned over the at least one strip of adhesive material and adjacent to the first one of the plurality of side edges with one of the plurality of liners located between the first one of the plurality of side edges and another one of the plurality of liners.

2. Printable media as claimed in claim 1, wherein the at least substantially opaque sheet comprises a paper sheet.

3. Printable media as claimed in claim 1, wherein the at least substantially opaque sheet comprises an 8 ½ inch x 11 inch sheet.

4. Printable media as claimed in claim 1, wherein the adhesive material comprises pressure sensitive adhesive.

5. Printable media as claimed in claim 1, wherein a second one of the side edges is parallel to the first one of the side edges and the at least one strip of adhesive material extends only partially from the first one of the side edges to the second one of the side edges.

6. Printable media as claimed in claim 1, wherein the at least one strip of adhesive material comprises a plurality of strips of adhesive material and the plurality of liners are respectively positioned over the plurality of strips of adhesive material.

7. Printable media, comprising:

an at least substantially opaque sheet defining a front side, a rear side and a plurality of side edges;

a single strip of adhesive material defining a width on one of the front and rear sides of the at least substantially opaque sheet adjacent to a first one of the plurality of side edges; and

a plurality of liners defining respective widths that are less than the width of the single strip of adhesive material positioned closely adjacent to one another over the single strip of adhesive material.

8. Printable media as claimed in claim 1, wherein the side edges define longitudinal ends and the adhesive material extends substantially from one longitudinal end of the one of the plurality of side edges to the other longitudinal end of the one of the plurality of side edges.

9. Printable media, comprising:

an at least substantially opaque sheet defining a front side, a rear side and at least first and second intersecting side edges, each of the first and second side edges defining opposing longitudinal ends, one of longitudinal ends of each of the first and second side edges defining a common longitudinal end;

a substantially continuous first strip of adhesive material on one of the front and rear sides of the at least substantially opaque sheet adjacent to the first side edge and extending substantially from one longitudinal end of the first side edge to the other longitudinal end of the first side edge; and

a substantially continuous second strip of adhesive material on the one of the front and rear sides of the at least substantially opaque sheet adjacent to the second side edge and extending substantially from one longitudinal end of the second side edge to the other longitudinal end of the second side edge.

10. Printable media as claimed in claim 9, wherein the at least substantially opaque sheet comprises a paper sheet.

11. Printable media as claimed in claim 9, wherein the at least substantially opaque sheet comprises an 8 ½ inch x 11 inch sheet.

12. Printable media as claimed in claim 9, wherein the adhesive material comprises pressure sensitive adhesive.

14. Printable media, comprising:

a sheet defining a front side, a rear side and at least first and second intersecting side edges, each of the first and second side edges defining opposing longitudinal ends, one of longitudinal ends of each of the first and second side edges defining a common longitudinal end;

a plurality of first strips of adhesive material on one of the front and rear sides of the sheet adjacent to the first side edge and extending substantially from one longitudinal end of the first side edge to the other longitudinal end of the first side edge;

a plurality of second strips of adhesive material on the one of the front and rear sides of the sheet adjacent to the second side edge and extending substantially from one longitudinal end of the second side edge to the other longitudinal end of the second side edge;

a plurality of first liners respectively positioned over the plurality of first strips of adhesive material; and

a plurality of second liners respectively positioned over the plurality of second strips of adhesive material.

15. Printable media, comprising:

a sheet defining a front side, a rear side and at least first and second intersecting side edges, each of the first and second side edges defining opposing longitudinal ends, one of longitudinal ends of each of the first and second side edges defining a common longitudinal end;

a first strip of adhesive material on one of the front and rear sides of the sheet adjacent to the first side edge and extending substantially from one longitudinal end of the first side edge to the other longitudinal end of the first side edge;

a second strip of adhesive material on the one of the front and rear sides of the sheet adjacent to the second side edge and extending substantially from one longitudinal end of the second side edge to the other longitudinal end of the second side edge; and

first and second liners respectively covering the first and second strips of adhesive material and including mitered ends adjacent to the common longitudinal end of the first and second side edges.

17. Printable media, comprising:

a sheet defining a front side, a rear side and at least first and second intersecting side edges, each of the first and second side edges defining opposing longitudinal ends, one of longitudinal ends of each of the first and second side edges defining a common longitudinal end;

a first strip of adhesive material on one of the front and rear sides of the sheet adjacent to the first side edge and extending substantially from one longitudinal end of the first side edge to the other longitudinal end of the first side edge;

a second strip of adhesive material on the one of the front and rear sides of the sheet adjacent to the second side edge and extending substantially from one longitudinal end of the second side edge to the other longitudinal end of the second side edge;

first and second liners respectively covering the first and second strips of adhesive material; and

a liner corner member adjacent to the common longitudinal end of the first and second side edges.

20. Printable media, comprising:

an at least substantially opaque sheet defining a front side, a rear side, first and second horizontally extending side edges, and first and second vertically extending side edges, each of the side edges defining opposing longitudinal ends;

a horizontally extending strip of pressure sensitive adhesive on the rear side of the at least substantially opaque sheet adjacent to the first horizontally extending side edge and extending substantially from one longitudinal end of the first horizontally extending side edge to the other longitudinal end of the first horizontally extending side edge;

a vertically extending strip of pressure sensitive adhesive on the rear side of the at least substantially opaque sheet adjacent to the first vertically extending side edge and extending substantially from one longitudinal end of the first vertically

extending side edge to the other longitudinal end of the first vertically extending side edge;

a plurality of closely spaced horizontally extending release liners together covering at least a substantial majority of the horizontally extending strip of pressure sensitive adhesive; and

a plurality of closely spaced vertically extending release liners together covering at least a substantial majority of the vertically extending strip of pressure sensitive adhesive.

21. Printable media as claimed in claim 7, wherein the at least substantially opaque sheet comprises a paper sheet.

22. Printable media as claimed in claim 7, wherein the at least substantially opaque sheet comprises an 8 ½ inch x 11 inch sheet.

23. Printable media as claimed in claim 14, wherein the sheet comprises a paper sheet.

24. Printable media as claimed in claim 14, wherein the sheet comprises an 8 ½ inch x 11 inch sheet.

25. Printable media as claimed in claim 15, wherein the sheet comprises a paper sheet.

26. Printable media as claimed in claim 15, wherein the sheet comprises an 8 ½ inch x 11 inch sheet.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.

EXHIBIT 1

U.S. Patent No. 6,455,119



US006455119B2

(12) **United States Patent**
Carides et al.

(10) **Patent No.:** US 6,455,119 B2
(45) **Date of Patent:** Sep. 24, 2002

(54) **LABEL STRUCTURE**

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(58) Field of Search 428/42.2, 43, 916, 428/40.1, 41.7, 41.8, 42.3; 283/103, 105

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U.S. PATENT DOCUMENTS

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4,510,019 A	* 4/1985	Bartelloni	162/141
4,846,504 A	7/1989	MacGregor et al.	283/102
5,547,227 A	* 8/1996	Laurash et al.	283/81
5,569,512 A	10/1996	Brawner et al.	428/29
5,601,887 A	2/1997	Rich et al.	428/29
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(57) **ABSTRACT**

A multi-ply label structure is especially, although not necessarily, adapted for affixation to a vessel. The multi-ply label is intended to protect a game piece, coupon, or other material from moisture and other detrimental external environments before affixation to the vessel. As a result, the bottle can be immersed in water for an extended period without destroying the integrity of the label structure.

13 Claims, 4 Drawing Sheets

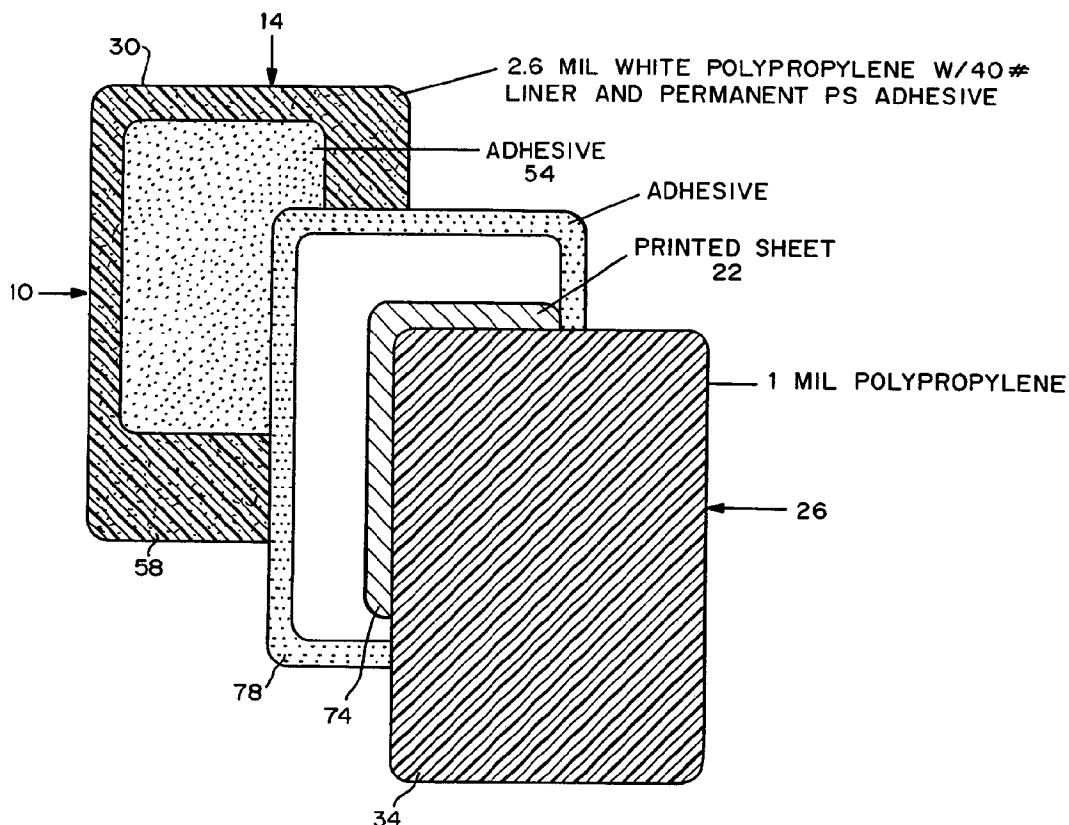
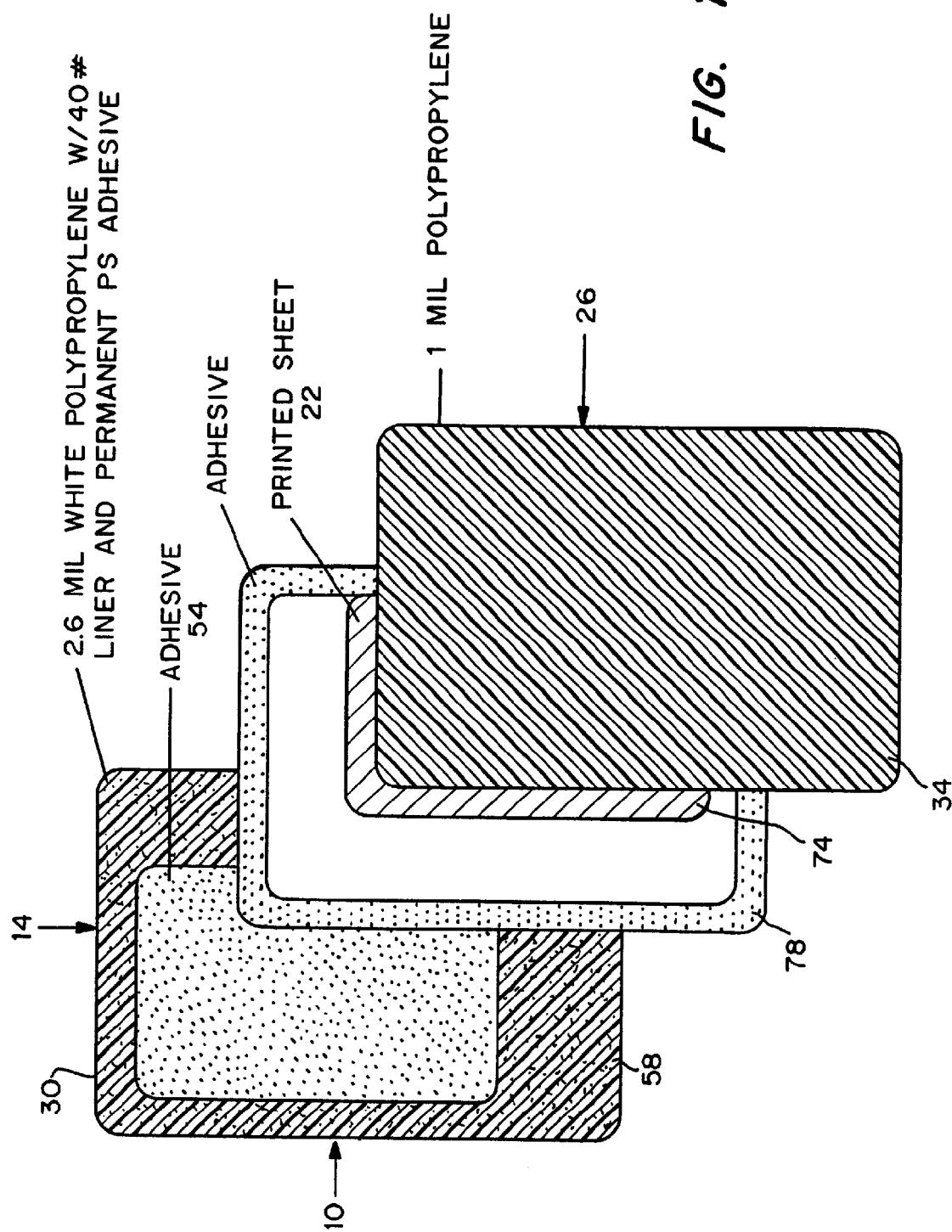


FIG. 1



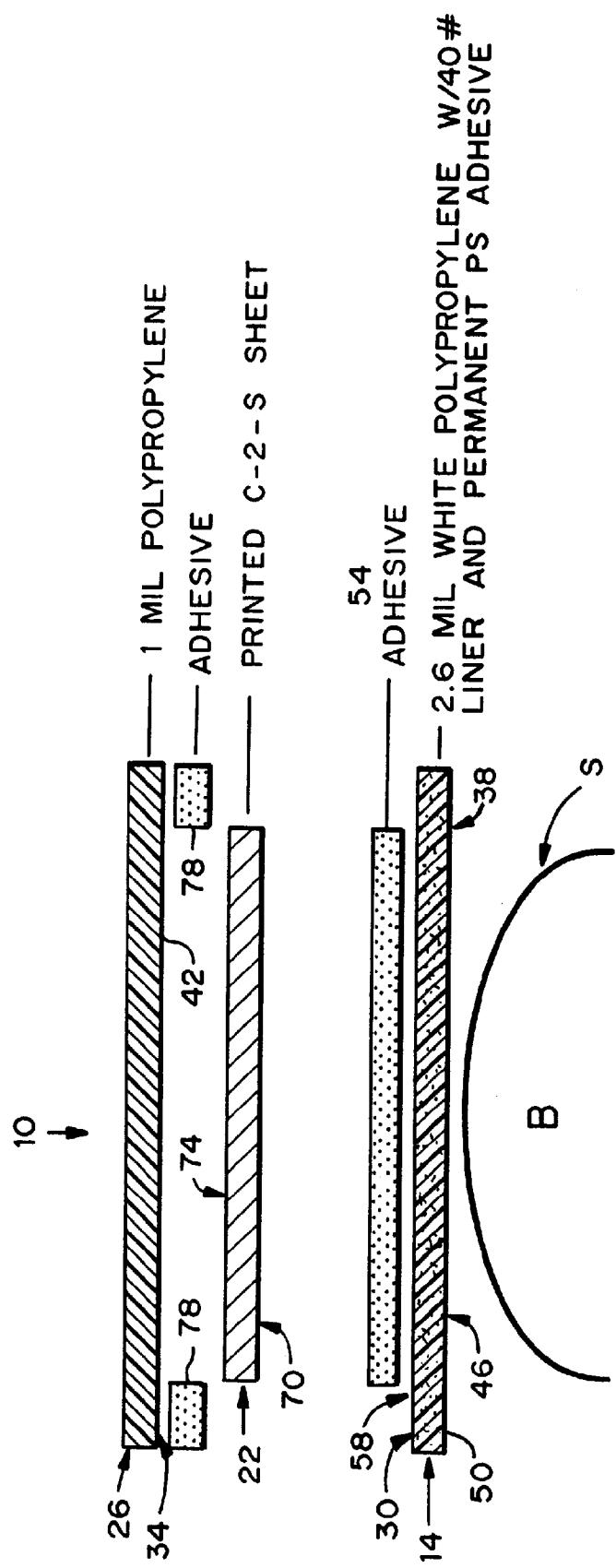


FIG. 2

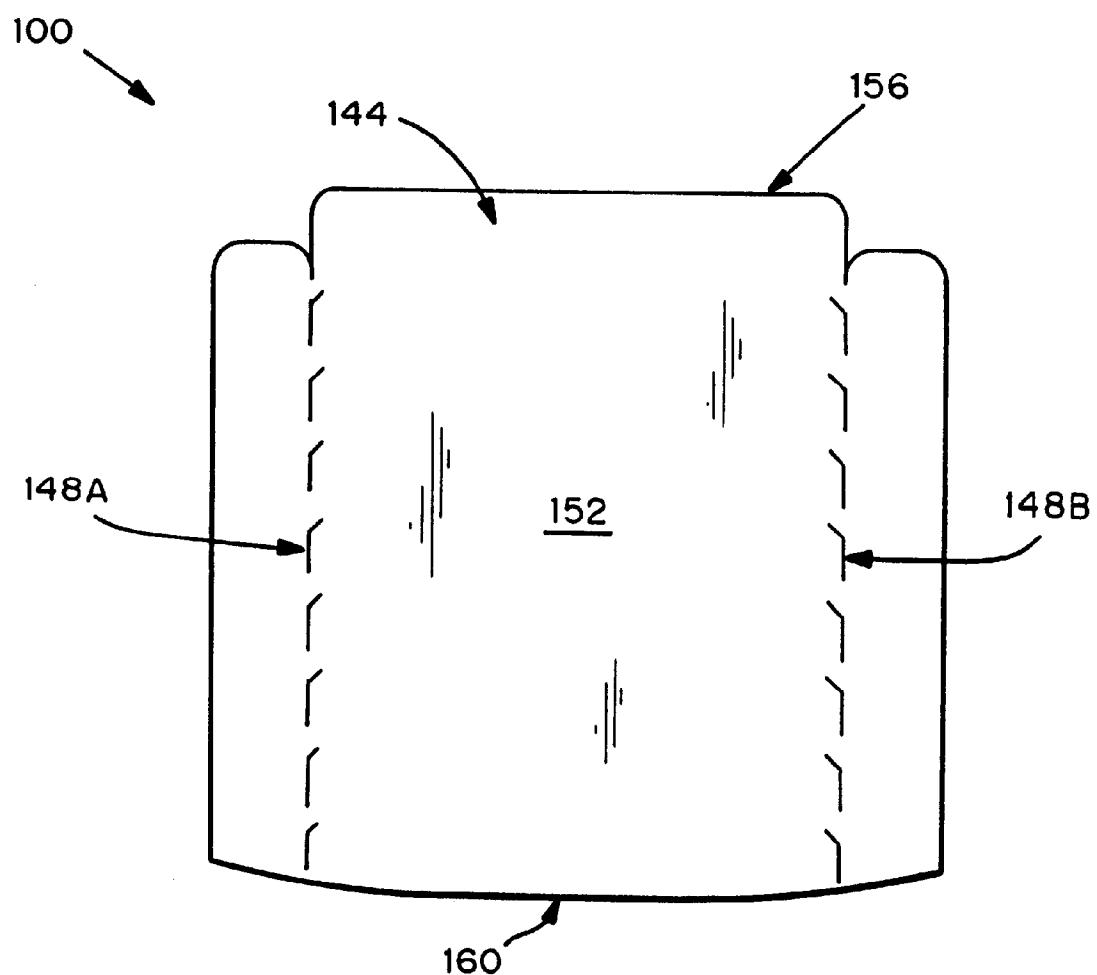
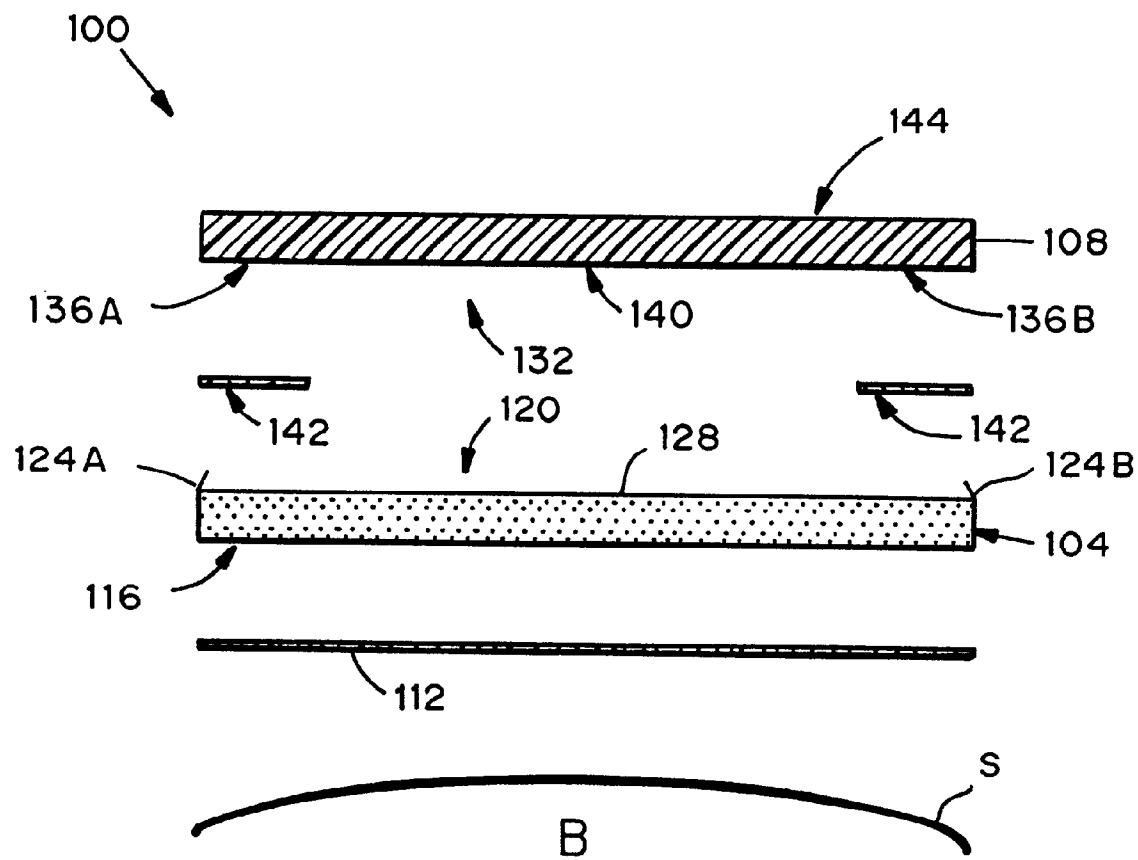
FIG. 3

FIG. 4

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LABEL STRUCTURE

FIELD OF THE INVENTION

This invention relates to labels and structural features thereof and more particularly to labels having game pieces, coupons, or promotional materials therein and which retain their integrity notwithstanding immersion in liquid nor exposure to detrimental external environments for extended periods.

BACKGROUND OF THE INVENTION

U.S. Pat. No. 4,846,504 to MacGregor, et al., incorporated herein in its entirety by this reference, discloses various "secure on-pack promotional coupons." Such coupons include concealed promotional materials and may be secured to packaging of consumer products. In one embodiment of the assemblies described in the MacGregor, et al. patent, the coupons consist of a set or series of labels, each label formed of a base portion, an intermediate (promotional) portion, and an outer portion.

Repeatedly emphasized in the MacGregor, et al. patent is the requirement that the promotional coupon be

secured to a product by water soluble adhesive, so that the purchaser of the product must run water over the label or coupon in order to expose the coupon . . . and remove it from the product.

See MacGregor, col. 1, lines 56–60; see also id., col. 2, lines 20–23; col. 4, line 67 through col. 5, line 6. According to the MacGregor, et al. patent, this requirement purportedly deters "persons from removing or tampering with the labels prior to purchasing the products." See id., col. 1, lines 63–65. It is, moreover, based on the assumption that water (or other liquid) is of only "limited availability . . . in stores." See id., line 61.

While not necessarily erroneous, the assumption made in the MacGregor, et al. patent is inconsistent with certain present-day practices. For example, grocery and convenience stores (among others) now often include freestanding displays in which plastic beverage bottles are wholly or partially immersed in ice water. Conventional coolers and other containers similarly surround bottles with ice water in many cases. In each of these instances, promotional coupons of the type disclosed in the MacGregor, et al. patent may lose their integrity through immersion in or contact with water. As the water contacts the promotional coupons, the effectiveness of the water-soluble adhesive is diminished, resulting in premature separation of the outer portion from the remainder of the assembly and undesired exposure of the intermediate (promotional) portion.

Moreover, some types of plastic and other bottles are cleansed with hot water after all labeling is affixed. This cleansing is also likely to disturb the water-soluble adhesive used in the promotional coupons of the MacGregor, et al. patent and precipitate loss of integrity of the overall label assembly. Again, the result is premature separation of the outer portion and exposure of the promotional material.

Among initial attempts to solve this problem associated with water baths was utilizing a film to attach a paper game piece to a bottle. The larger film, to which adhesive was applied to the perimeter of its underside, effectively sandwiched the game piece against the outer surface of the bottle. Any defect in applying the film to the bottle permitted water to seep beneath the film into contact with the paper game piece, however, diminishing its viability as a solution to the problem.

SUMMARY OF THE INVENTION

By contrast, the present invention avoids problems associated with, among other things, these water baths by

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providing a multi-ply label structure in which a game piece is sealed from the ambient environment before affixation to a bottle. Because developed for purposes different than the promotional coupons of the MacGregor, et al. patent, moreover, the label structures of the present invention do not utilize water-soluble adhesive to attach components to a bottle. Instead, the innovative labels described herein are designed especially to retain their integrity notwithstanding immersion in either hot or cold water (or other liquid) for extended periods.

A label according to one embodiment of the invention includes three plies. In this embodiment, a base ply is a filmic material, such as polypropylene, or other substrate whose underside is adherable to, among other things, a plastic bottle. Positioned atop the base ply, and typically (although not necessarily) of lesser length and width, is a middle ply or layer formed of, for instance, a paper or filmic material. The middle ply or layer is not limited to a single ply or material but, alternatively, may be a game piece or premium construction that includes, but is not limited to, labels, scratch off coatings, reactive coatings, redeemable materials, currency and the like. The underside of the middle ply may in some cases be temporarily adhered to the upper surface of the base ply, thereby forming a laminated structure.

Adhered to the base ply along the perimeter of its upper surface is a second ply, which is a polypropylene or other filmic material. This second ply constitutes the top of the multi-ply structure, and together with the base ply forms a pouch in whose central area the middle ply, which may be a game piece, coupon, or other material resides. The base and second plies and an adhesive attaching them are selected so as to be water-impervious, thereby sealing the game piece from any water that might contact the label. Thus, neither immersion in water of a bottle containing such a label nor defective affixation of the label to the bottle is likely to destroy the integrity of the multi-ply assembly or the contents of the game piece contained therein.

As noted above, if desired, the underside of the middle ply may contain an adhesive to prevent the game piece from changing position within the pouch. The multi-ply assembly additionally may be manufactured on a backing tape or web for easy storage and transport in rolls. Such web, as is conventional, would have an upper surface coated with a release layer to facilitate removal of the assembly for affixing to a bottle or other suitable substrate. Because the game piece is protected from moisture while within the assembly, furthermore, it may include inks, scratch-off coverings, holograms, labels, premiums, involvement devices, currency and other features that it otherwise could not successfully have.

Certain other embodiments of the invention utilize solely water-impervious or -insoluble materials to form multi-ply label structures. Containing two or more plies, such labels may include a base ply whose underside is adapted to be adhered to a substrate. Like base plies of embodiments of the invention discussed earlier, these base plies may be formed of filmic materials other than paper, including plastics such as (but not necessarily limited to) polypropylene, polystyrene, polyethylene, and polyester.

Positioned over each base ply is an upper, non-paper ply similarly typically, although not necessarily, formed of polypropylene or other material. In certain embodiments of the invention, no plies other than the base ply and upper ply are incorporated into the water-impervious label although additional upper plies may be desirable. The base ply and

upper ply, therefore, contain all of the promotional or game-playing indicia present on the label.

To accomplish this result, the indicia, and any scratch-off coverings, are printed directly onto either or both of the base ply and upper ply. The upper surface of the base ply is especially suited for receiving this printed indicia, as either a removable covering printed onto the upper surface of the base ply over the indicia, or an opaque covering printed on either surface of the upper ply, may obscure the printed indicia from view. Alternatively, the indicia (and perhaps a scratch-off covering) may be placed on the underside of the upper ply, with the top surface of the upper ply containing an opaque, water-insoluble ink designed to prevent premature viewing of the contents of the underside of the ply. In similar embodiments containing three or more plies, water-insoluble inks are not necessary for use on the top surface of the upper ply if other plies protect the inks from the likely ambient environment. Yet another alternative is to print the indicia onto an opaque "lilly pad" of ink printed directly onto the underside of the upper ply. Alternatively, gaming or other premium indicia may be printed or imaged similarly as previously mentioned while absent of specific opacifying materials. Such indicia or coatings would require only resistance properties to survive immersion or moisture exposure.

These two-ply versions of the present invention usually are designed so that only peripheral portions of the base ply and upper ply are adhered to each other. If perforations on the upper ply delineate the peripheral boundaries of the ply adhered to the base ply, the central portion of the upper ply may be made to be removable simply by tearing it along the perforations. Doing so exposes both the underside of the upper ply and the upper surface of the base ply as well as any indicia or scratch-off coverings printed thereon.

It is therefore an object of the present invention to provide a label structure that includes a game piece, coupon, or other promotional material.

It is another object of the present invention to provide a label structure which retains its integrity notwithstanding immersion in liquid or other exposure to moisture for extended periods.

It is an additional object of the present invention to provide a label structure in which the game piece forming part of the assembly is sealed from the ambient environment before being affixed to, e.g., a bottle or other packaging vessel.

It is a further object of the present invention to provide a label structure avoiding use of a water-soluble adhesive to attach any portion of the structure to a bottle or other surface.

It is also an object of the present invention to provide a three-ply label including a layer of film and a base layer positioned intermediate the film layer and a substrate such as a bottle.

It is yet another object of the present invention to provide a label utilizing solely water-impermeable or insoluble materials.

It is still a further object of the present invention to provide a label that utilizes adhesive that are recyclable or repulpable.

Other objects, features, and advantages of the present invention will become apparent with reference to the remainder of the text and the drawings of this application.

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is an exploded perspective view of a label structure according to a first embodiment of the present invention.

FIG. 2 is an exploded-cross-sectional view of the label structure of FIG. 1 before attachment to a bottle.

FIG. 3 is a plan view of a label structure according to a second embodiment of the present invention.

FIG. 4 is an exploded cross-sectional view of the label structure of FIG. 3 before attachment to a bottle.

DETAILED DESCRIPTION

Illustrated in FIGS. 1-2 is an exemplary label 10 according to a first embodiment of the present invention. The label 10 shown in FIGS. 1-2 includes three plies: a base 14 ply, a middle ply or game portion 22, and a second ply 26. In use, these plies are effectively laminated to form the single assembly 10 which may be attached to a substrate, such as bottle B.

Each of base ply 14 and second ply 26 may have the same length and width if necessary or desired. Equating dimensions of these components may enhance the aesthetic appeal of the label 10 in some cases and may promote protection of game portion 22 from the ambient environment. Base ply 14 and second ply 26 need not be dimensioned identically, however, nor need they be substantially rectangular as shown in FIGS. 1-2. Instead, those skilled in the art will recognize that these components may have different dimensions and shapes than those expressly illustrated herein.

Generally, however, the length and width of game portion 22 will be less than those of base ply 14 and second ply 26. These relative dimensions permit the base ply 14 and the second ply 26 to encase game portion 22 when their respective peripheries 30 and 34 are adhered. As so encased, game portion 22 is sealed in a pouch or protective enclosure formed between central areas 38 and 42 of base ply 14 and second ply 26, respectively.

Certain embodiments of label 10 are designed to include clear polypropylene film (which may be one mil thick) as the second ply 26. Because such film is impervious to water, sealing game portion 22 underneath second ply 26 helps prevent any substantial seepage of moisture into the pouch containing game portion 22. Thus, game portion 22 is not typically subjected to the detrimental effects of moisture even should it be bathed or immersed in water for an extended period of time. This avoidance permits game portion 22 to have numerous features (such as inks, scratch-off materials, etc.) to enhance its promotional or entertainment abilities that otherwise could not be present if subject to contact with moisture.

Base ply 14 may, if desired, be a layer of greater thickness than second ply 26. In addition to helping seal game portion 22 from moisture, base ply 14 functions to attach the remainder of label 10 to the bottle B or another substrate. It thus must be sufficiently thin and flexible to accommodate and conform to a contoured surface S of bottle B yet sufficiently strong to maintain its structural integrity when subjected to automatic affixation techniques, temperature extremes, and moisture. A presently-preferred material for the base ply 14 is a 2.6 mil thick white polypropylene film with a #43 liner, which also has sufficient opacity to prevent someone from visually discerning the contents of game portion 22 by peering through whatever liquid is contained within bottle B. The base ply 14 is not limited to this material but may be formed of other filmic materials that are water-impermeable, such as polyethylene, polystyrene, or polyester.

Because a consumer need not remove base ply 14 from the bottle B to access game portion 22, base ply 14 may be attached to the bottle B using a substantially permanent pressure-sensitive or other adhesive 46 placed on its underside 50.

The adhesive 46 used to-secure the base ply to the substrate is preferably also recyclable. Some commonly used adhesives to secure labels to a substrate are incompatible with recycling processes. In the recycling of PET bottles and other goods, the PET is reclaimed by placing the goods in a caustic bath, such as a 1% sodium hydroxide bath. Some of the commonly used adhesives, however, are not removed after being immersed in the sodium hydroxide bath and are therefore not recyclable. Further, some of these adhesives are not repulpable since the presence of these adhesives contaminate the PET recycling stream.

In the label 10 according to a preferred embodiment of the invention, the adhesive 46 is one that resists water permeation but which is resolvable upon exposure to a caustic bath. As a result, the adhesive 46 complies with recyclability parameters such that its residual effects be cleanly removed following a mild caustic bath exposure. Examples of suitable adhesives 46 include, but are not limited to, EOA 109 from Fasson Roll North America (FRNA), a division of Avery Dennison of Pasadena, Calif. and #758 from Green Bay Packaging of Green Bay, Wis.

By contrast, game portion 22 is typically removed from base ply 14 by shearing a suitable adhesive 54, including one cured using ultraviolet radiation (a "UV adhesive"), a laminating adhesive, or a pressure sensitive adhesive. The adhesive 54 may be applied either to upper surface 58 of base ply 14 or underside 70 of the game portion 22, or both, to adhere the two together.

Placed atop adhesive 54 and upper surface 58 in central area 38 is the game piece 22. If completely or substantially opaque, game portion 22 may include text, symbols, or other information on its underside 70 that is obscured from view on the one hand by its upper surface 74 and on the other by the base ply 14. Similarly, because game portion 22 obscures central area 38 of upper surface 58 from view, hidden textual or other information may be printed or otherwise included thereon as well. As noted above, scratch-off or other material, including any or all of the elements of the cards disclosed in U.S. Pat. Nos. 5,569,512 to Brawner, et al. and 5,601,887 to Rich, et al. (incorporated herein in their entireties by this reference), may be included on either or both of underside 70 or upper surface 74 of game portion 22 as well as upper surface 58 of base ply 14 or conversely the underside of the second layer 26.

To encase game portion 22, an adhesive 78 is applied to either or both of peripheries 30 and 34 to bond them together. Doing so effectively forms a pouch or protective enclosure between central areas 38 and 42 in which game portion 22 resides. If necessary or appropriate to prevent game portion 22 from moving within the pouch, the adhesive 54 may be used to attach underside 70 of the game portion 22 or to the upper surface 58 of the base ply 14. Adhesives 78 and 54 may, in the vernacular of the MacGregor, et al. patent, be "removable" or otherwise temporary bonding agents, as they usually should not prevent a consumer from removing game portion 22 from the remainder of the label 10. It may be further desirable that adhesives 78 and 54 be permanent in nature thus requiring physical invasive methods such as cutting of the pouch to remove game portion 22.

To access game portion 22, in most cases the consumer need merely peel second ply 26 away from the remainder of the label 10. Facilitating such removal may be information printed on the upper surface 58 of the base ply 14 such as the phrase "pull here" and an arrow pointing to a corner of the label 10. Removing the second ply 26 exposes the upper

surface 74 of game portion 22. If (temporary) adhesive 54 is present, a consumer may merely peel composite game portion 22 away from the upper surface 58 of the base ply 14 to expose underside 70 and remove the game portion 22 from the remainder of label 10. Alternatively, the game portion 22 may possess a perforation along a select region delineating a tab enabling adhesive 54 to selectively bond the tab to the upper surface 58 of the base ply 14 while permitting a residue free portion of the game portion 22 to be cleanly removed.

Those skilled in the art will recognize that game portion 22 is not limited to two-sided structures, but may instead contain folds, cut-outs, or pop-ups, for example, or otherwise be more complex than a simple two-sided material. Further, as discussed above, the game portion 22 is not limited to a single ply structure but may encompass a scratch off coating, a hologram, and other additional layers or coatings. Additionally, in some cases, game portion 22 may be of foreign origin such as a stamp, tattoo, currency or other premium or incentive.

FIGS. 3-4 detail an alternative label 100 of the present invention. As shown in these figures, the label 100 includes base ply 104 and upper ply 108. Both base ply 104 and upper ply 108 are made of water-impermeable materials such as, for example, polypropylene. In some versions of assembly 100, base ply 104 may be similar or identical to base ply 14 of FIGS. 1-2. Also, the upper ply 108 may be similar or identical to the second ply 26.

In use, the label 100 is intended to be attached to a bottle B or other substrate. Adhesive 112 (which may be pressure sensitive if appropriate) thus may be placed on an underside 116 of the base ply 104, with such adhesive 112 connecting the label 100 to a surface S of a bottle B. Since in most (if not all) instances consumers need not remove base ply 104 from the bottle B, the adhesive 112 may be water-insoluble or otherwise substantially permanent. Because the bottle B may need to be recyclable, the adhesive 112 is preferably a recyclable adhesive that degrades upon exposure to a mild caustic bath. Suitable adhesives includes those mentioned-above with reference to adhesive 46.

Upper surface 120 of base ply 104 defines peripheral portions or edges 124A and 124B, intermediate which is central portion 128. Lower surface 132 of upper ply 108 likewise defines edges 136A and 136B and a central portion 140. By applying a water-insoluble adhesive 142 to either edges 124A or 136A (or both) and edges 124B and 136B (or both) and affixing edge 124A to edge 136A and edge 124B to edge 136B, a single label assembly 100 may be formed. Such affixation usually occurs prior to the label 100 being connected to the bottle B or a similar substrate, although it need not if necessary to do otherwise. In addition to being insoluble in water, the adhesive 142 may also be substantially permanent if desired.

Also illustrated in FIGS. 3-4 is top surface 144 of the upper ply 108. Sets of perforations 148A and 148B extend from top surface 144 through to lower surface 132 of upper ply 108, with perforation set 148A differentiating edge 136A from central portion 140 and perforation set 148B differentiating edge 136B from the central portion 140. The central portion 140 of the upper ply 108 has an upper surface 152. To remove the central portion 140 of the upper ply 108 from the remainder of the label 100, a consumer need merely grasp a top section 156 of the upper ply 108 and pull it toward a bottom section 160 of the upper ply 108 to rupture the perforations of sets 148A and 148B.

Because the materials incorporated in the label 100 are impermeable to water, they are unlikely to be damaged or

altered due to exposure from the ambient environment when assembly 100 is intact. Either or both of such central portions 128 and 140 may thus contain promotional or game-playing indicia unlikely to be damaged even should bottle B be placed for an extended period in an ice-water bath. Either or both of central portions 128 and 140 additionally may include a scratch-off or other removable coating if desired to obscure the indicia from view temporarily. If game indicia is printed directly onto central portion 140 (without, for example, an underlying "lilly pad" of ink) and upper ply 108 is transparent, opaque, water-insoluble ink may need to be applied to top surface 152 of the central portion 140 to prevent viewing of the indicia (through the transparent ply 108) before the central portion 140 is removed from the remainder of the label 100.

The foregoing is provided for purposes of illustrating, explaining, and describing embodiments of the present invention. Further modifications and adaptation to these embodiments will be apparent to those skilled in the art and may be made without departing from the scope of spirit of the invention. 20

We claim:

1. A label for attachment to a substrate and for providing a protective enclosure for a promotional element, comprising:

- a. a water-impervious base ply having:
 - i. an upper surface;
 - ii. a lower surface;
 - iii. a peripheral portion; and
 - iv. a central portion;
- b. a water-impervious upper ply having:
 - i. a top surface;
 - ii. a bottom surface;
 - iii. a peripheral portion; and
 - iv. a central portion;
- c. a first water-insoluble adhesive applied to the lower surface of the base ply for attaching the base ply to the substrate, the first water-insoluble adhesive being soluble in a caustic bath;
- d. a second water-insoluble adhesive applied to the peripheral portion of at least one of the base ply and upper ply so as to attach the base ply and upper ply; and
- e. the promotional element for being placed in the protective enclosure wherein the protective enclosure for receiving the promotional element is defined between the central portion of the upper ply and the central portion of the base ply;

wherein the water-impervious base ply, the water-impervious upper ply, and the water-insoluble adhesive prevent migration of moisture to the promotional element, whereby the integrity of the promotional element can be maintained when the substrate and the label with the promotional element are immersed in water;

the label further comprising the element and wherein the element is a middle ply.

2. The label according to claim 1, wherein the middle ply includes indicia printed on at least one of a top surface of the middle ply or a bottom surface of the middle ply.

3. The label according to claim 1, further comprising an adhesive for securing the middle ply to at least one of the base ply or upper ply.

4. The label according to claim 1, wherein the middle ply includes a set of perforations for defining first and second sections and wherein the first section is adhered to one of the base ply or the upper ply.

5. The label according to claim 4, wherein the adhesive is not applied to the second section.

6. The label according to claim 1, wherein the base ply and upper ply comprise films.

7. The label according to claim 1, wherein the base ply and upper ply are made of a synthetic material.

8. The label according to claim 1, wherein the base ply and upper ply are made of polypropylene.

9. The label according to claim 1, wherein the second adhesive is soluble in a caustic bath.

10. A label for attachment to a substrate and for use with a promotional piece, comprising:

- a. a water-impervious base ply having:
 - i. an upper surface;
 - ii. a lower surface;
 - iii. a peripheral portion; and
 - iv. a central portion;
- b. a water-impervious upper ply having:
 - i. a top surface;
 - ii. a bottom surface;
 - iii. a peripheral portion; and
 - iv. a central portion;
- c. a first water-insoluble adhesive applied to the lower surface of the base ply for attaching the base ply to the substrate;
- d. a second water-insoluble adhesive applied to the peripheral portion of at least one of the base ply and upper ply so as to attach the base ply and upper ply;
- e. a middle ply positioned between the base ply and the upper ply and being sized to be contained within at least one of the central portion of the base ply or the central portion of the upper ply, the middle ply forming part of the promotional piece and having:
 - i. a first section;
 - ii. a second section; and
 - iii. a set of perforations for defining a boundary between the first and second sections; and

f. a third adhesive for securing the first section of the middle ply to at least one of the upper surface of the base ply or the bottom surface of the upper ply;

wherein the adhesive is not applied to the second section of the middle ply whereby the second section of the middle ply may be removed from the first section along the set of perforations; and

wherein the water-impervious base ply, the water-impervious upper ply, the first and second water-insoluble adhesive prevent migration of moisture to the middle ply, whereby the integrity of the middle ply can be maintained when the substrate and label are immersed in water.

11. The label according to claim 10, wherein the base ply and upper ply comprise films.

12. The label according to claim 10, wherein the base ply and upper ply are made of a synthetic material.

13. The label according to claim 10, wherein the base ply and upper ply are made of polypropylene.